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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,780	11/20/2001	Marc Bladen	1984.0010000	9116
26111 7590 07/26/2007 STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER LOFTIS, JOHNNA RONEE	
			ART UNIT 3623	PAPER NUMBER
			MAIL DATE 07/26/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/988,780	<b>Applicant(s)</b> BLADEN ET AL.	
	<b>Examiner</b> Johnna R. Loftis	<b>Art Unit</b> 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 May 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The following is a final office action upon examination of application number 09/988,780. Claims 1-52 are pending and have been examined on the merits discussed below.

#### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 38 and 42 have been considered but are moot in view of the new ground(s) of rejection. Applicant argues the claims as newly amended wherein each of the site-specific assessment files is a subset of one or more discipline-specific questions. Examiner has referred back to the specification, paragraph 0120, for clarification of claimed subsets. As understood by examiner, this paragraph states pulling specific questions from a discipline-specific repository of questions generates the site-specific database. As Examiner understands the Safetylogic methodology, for each site assessment that is performed the questions are gathered from a list of questions geared toward that specific discipline.

Rejections have been modified below.

3. Applicant has attempted to challenge the Examiner's taking of Official Notice in the Office Action mailed 2/16/07. There are minimum requirements for a challenge to Official Notice:

- (a) In general, a challenge, to be proper, must contain adequate information or arguments so that *on its face* it creates a reasonable doubt regarding the circumstances justifying the Official Notice

- (b) Applicants must seasonably traverse (challenge) the taking of Official Notice as soon as practicable, meaning the next response following an Office Action. If an applicant fails

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to seasonably traverse the Official Notice during examination, his right to challenge the Official Notice is waived.

Applicant has not provided adequate information or arguments so that *on its face* it creates a reasonable doubt regarding the circumstances justifying the Official Notice. Therefore, the presentation of a reference to substantiate the Official Notice is not deemed necessary. The Examiner's taking of Official Notice has been maintained.

Bald statements such as, "the Examiner has not provided proof that this element is well known" or "applicant disagrees with the Examiner's taking of Official Notice and hereby requests evidence in support thereof", are not adequate and do not shift the burden to the Examiner to provide evidence in support of the Official Notice.

***Claim Rejections - 35 USC § 103***

4. Claims 1-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Safetylogic, according to the following articles about Aon's Safetylogic:

- A. Roberts' "New online tool targets loss costs" and
  - B. Gjertsen's "'Aonline' offers web services to RMs"
- hereinafter referred to as Safetylogic

As per **claim 1**, Safetylogic teaches (2) populating the one or more discipline-specific master assessment manuals with discipline-specific questions (Safetylogic uses a custom-tailored checklist template populated with discipline-specific assessment data, i.e., in the construction, manufacturing, health care, hospitality and retail industries); (3) generating one or more site-specific assessment files from the one or more populated discipline-specific master assessment

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manuals, each of the one or more site-specific assessment files being a subset of one or more of the discipline-specific questions (Safetylogic inherently creates a file for the site-specific assessment since that assessment is then transmitted over the Internet – these site-specific questions are pulled from discipline-specific assessment data, i.e., in the construction, manufacturing, health care, hospitality and retail industries); and (4) performing an assessment of a site using the one or more site-specific assessment files (the client then complete the checklists to perform site assessment). Safetylogic teaches generating a custom-tailored checklist with discipline-specific assessment data, but does not explicitly teach creating the discipline-specific assessment manual (checklist) from templates. Official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to create checklists from existing templates. By utilizing templates for creation of checklists (assessments), one ensures consistency in the results.

As per **claim 2**, Safetylogic teaches generating one or more computer file copies of the one or more blank master assessment templates (the assessment checklist, prior to being completed, is inherently saved as a computer file and transmitted over the Internet to the client).

As per **claim 3**, Safetylogic teaches one or more blank master assessment templates are generated by information technology (IT) professionals (inherently the assessment checklists, prior to being completed are created by a professional associated with Safetylogic that has the knowledge to create the checklist and display them on the Internet site).

As per **claim 4**, Safetylogic teaches generating one or more interactive assessment manuals directed to ongoing risk maintenance (Safetylogic enables risk managers to monitor whether the company is in sync with corporate directives).

As per **claim 5**, Safetylogic teaches generating one or more blank master audit manuals directed to taking a snapshot of an entity's condition (Safetylogic enables risk managers to monitor whether the company is in sync with corporate directives).

As per **claim 6**, Safetylogic teaches generating one or more interactive assessment manuals directed to ongoing risk maintenance; and generating one or more blank master audit manuals directed to taking a snapshot of an entity's condition (Safetylogic enables risk managers to monitor whether the company is in sync with corporate directives; the Safetylogic checklists are formatted in such a way so as to be personalized for each client).

As per **claim 7**, Safetylogic teaches discipline specific questions comprise one or more of risk assessment and management questions, procedures, links, comments and other information useful for risk assessment and management (as one example checklists are created for safety inspections, inherently these checklists would comprise specific questions pertaining to procedures used by the client in their industry, also, the "Internet Index", page 2 of Gjertsen, includes links to information sources that Aon develops with a service provider, for example, an airline's Aonline Internet Index might include links to the Federal Aviation Administration and the National Weather Service).

As per **claim 8**, Safetylogic does not explicitly teach the population of one or more discipline-specific master assessment manuals are performed by one or more chief consultants having expertise in a specific discipline, wherein in the one or more chief consultants populate the one or more discipline-specific master assessment manuals with questions that are structured to identify issues and assess compliance with statutes, rules regulations, best practices and other duties of care relevant to the specific discipline. However, it would have been obvious at the

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time of the invention to consult with specialists in each industry to populate the assessment manuals with discipline specific questions to identify issues and assess compliance. Including specialists in the population of assessment questions would ensure accurate risk assessments take place considering important aspects of the discipline at hand.

As per **claims 9-27**, Safetylogic teaches working with several industry areas including construction, manufacturing, health care, etc., to perform risk assessments using custom-tailored programs. Safetylogic does not expressly teach the specific data recited in claims 9-27, wherein specific industry assessment information is used to populate the assessment manual. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

Further, it would have been obvious to one of ordinary skill in the art to populate the assessment manual with discipline specific questions based on how Safetylogic is custom-tailored to each client. This would ensure accurate risk assessments take place considering important aspects of the discipline at hand.

As per **claim 28**, Safetylogic teaches the step of populating one or more blank master interactive assessment manuals directed to ongoing risk assessment with discipline-specific questions, wherein the discipline-specific questions are tailored for interactive assessments

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(Safetylogic teaches the checklists that are sent tot the client must be completed and returned for evaluation using reporting features which allow the client to track efforts being conducted all over the company).

As per **claim 29**, Safetylogic teaches populating one or more blank master audit manuals directed to taking a snapshot of an entity's condition with discipline-specific questions, wherein the discipline-specific questions are tailored for audit assessments (Safetylogic enables risk managers to monitor whether the company is in sync with corporate directives).

As per **claim 30**, Safetylogic teaches selecting site-specific questions from the one or more populated discipline-specific master assessment manuals to generate one or more site-specific assessment files (the assessment checklist, prior to being completed, is inherently saved as a computer file and transmitted over the Internet to the client).

As per **claim 31**, Safetylogic teaches one or more site-specific assessment files are site-specific interactive assessment files comprising discipline specific questions tailored for interactive assessment (Safetylogic teaches the checklists that are sent to the client must be completed and returned for evaluation using reporting features which allow the client to track efforts being conducted all over the company).

As per **claim 32**, Safetylogic teaches one or more site-specific assessment files are site-specific audit assessment files comprising discipline-specific questions tailored for audit assessment (Safetylogic enables risk managers to monitor whether the company is in sync with corporate directives).

As per **claim 33**, Safetylogic teaches selecting site-specific questions from one or more populated discipline-specific master assessment manuals to generate one or more site-specific



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assessment files, wherein a site-specific assessment file includes questions from more than one populated discipline-specific master assessment manual (the assessment checklist, prior to being completed, is inherently saved as a computer file and transmitted over the Internet to the client).

As per **claim 34**, Safetylogic teaches the step of performing an interactive assessment of a site using one or more site-specific interactive assessment files (Safetylogic teaches the checklists that are sent to the client must be completed and returned for evaluation using reporting features which allow the client to track efforts being conducted all over the company).

As per **claim 35**, Safetylogic teaches performing an audit assessment of a site using one or more site-specific audit assessment files (Safetylogic enables risk managers to monitor whether the company is in sync with corporate directives).

As per **claim 36**, Safetylogic teaches performing steps 1 and 2 on a central computer system; performing step 3 on a remote computer system; entering results from step 4 on the remote computer system; and uploading the results from step 4 from the remote computer system to the central computer system (the discipline specific checklists are generated within Safetylogic at Aon, while the site specific file is then sent to a remote computer, i.e., at the client site to perform and enter assessment information).

As per **claim 37**, Safetylogic teaches performing steps 1 through 3 on a central computer; entering results from step 4 on a remote computer system; and uploading the results from step 4 from the remote computer system to the central computer system (the discipline specific checklists are generated within Safetylogic at Aon and then submitted to a remote client computer over the Internet for performance of assessment).

As per **claim 38**, Safetylogic teaches (2) populating the one or more discipline-specific master assessment manuals with discipline-specific questions (Safetylogic uses a custom-tailored checklist template populated with discipline-specific assessment data, i.e., in the construction, manufacturing, health care, hospitality and retail industries; (3) generating one or more site-specific assessment files from the one or more populated discipline-specific master assessment manuals each of the one or more site-specific risk assessment files being a subset of one or more of the discipline-specific questions (Safetylogic inherently creates a file for the site-specific assessment since that assessment is then transmitted over the Internet – these site-specific questions are pulled from discipline-specific assessment data, i.e., in the construction, manufacturing, health care, hospitality and retail industries); and (4) performing an assessment of a site using the one or more site-specific assessment files (the client then complete the checklists to perform site assessment). Safetylogic teaches generating a custom-tailored checklist with discipline-specific assessment data, but does not explicitly teach creating the discipline-specific assessment manual (checklist) from templates. Official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to create checklists from existing templates. By utilizing templates for creation of checklists (assessments), one ensures consistency in the results.

As per **claim 39**, Safetylogic teaches generating one or more discipline-specific master interactive assessment manuals from one or more blank master assessment templates (Safetylogic uses a custom-tailored checklist template populated with discipline-specific assessment data for use in an interactive assessment over the Internet); populating the one or more discipline-specific master interactive assessment manuals with discipline-specific questions

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(Safetylogic uses a custom-tailored checklist template populated with discipline-specific assessment data); generating for each of the one or more clients, one or more site-specific assessment files from the one or more populated discipline-specific master interactive assessment manuals, wherein the questions selected are based, at least in part, on results from the initial risk assessment performed in step 4 (the assessment data that is sent back to Safetylogic is compiled and formatted into a report to convey findings).

As per **claim 40**, Safetylogic teaches performing follow up risk assessment of one or more clients (Safetylogic teaches providing quarterly reports to show managers how the company is progressing), but does not explicitly teach training the one or more clients on use and revision of the one or more site-specific assessment files. It would have been obvious to one of ordinary skill in the art at the time of the invention to include training for the clients to ensure the clients know how to operate the system and understand how the process works. This would ensure more accurate results from the risk assessment.

As per **claim 41**, Safetylogic does not explicitly teach periodically performing audits for each of the one or more clients, however, official notice is taken that it would have been obvious to one of ordinary skill in the art to periodically audit the clients as a way to track progress and compare earlier audit results with later results. This would provide a benchmark to gauge improvement.

As per **claim 42**, Safetylogic teaches (6) generating blank master interactive assessment and audit templates (Safetylogic uses a custom-tailored checklist template populated with discipline-specific assessment data, i.e., in the construction, manufacturing, health care, hospitality and retail industries); (7) generating a master interactive assessment manual from the

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blank master interactive assessment files, the master interactive assessment manual being populated with discipline-specific questions (Safetylogic uses a custom-tailored checklist template populated with discipline-specific assessment data, i.e., in the construction, manufacturing, health care, hospitality and retail industries); (8) generating a master audit manual from the blank master audit template (Safetylogic uses a custom-tailored checklist template populated with discipline-specific assessment data, i.e., in the construction, manufacturing, health care, hospitality and retail industries); wherein said master interactive assessment manual and said master audit manual are used as a guide for auditing and assessing businesses and other entities for one or more areas of risk management based on standards of care that arise from statutes, rules, and regulations promulgated by government and regulatory organizations; and generating one or more interactive site-specific assessment files from the master interactive assessment manual, each of the interactive site-specific assessment files being a subset of one or more of the discipline-specific questions (Safetylogic inherently creates a file for the site-specific assessment since that assessment is then transmitted over the Internet – these site-specific questions are pulled from discipline-specific assessment data, i.e., in the construction, manufacturing, health care, hospitality and retail industries. Safetylogic teaches generating a custom-tailored checklist with discipline-specific assessment data, but does not explicitly teach creating the interactive assessment manual (checklist) from templates. Official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to create checklists from existing templates. By utilizing templates for creation of checklists (assessments), one ensures consistency in the results.

As per **claim 43**, Safetylogic teaches generating site-specific audit files from the master audit manual; auditing a site using the site-specific audit files (Safetylogic uses a custom-tailored checklist template populated with discipline-specific assessment data, i.e., in the construction, manufacturing, health care, hospitality and retail industries); performing an initial audit of the site using the interactive site specific assessment files); and generating a site-specific interactive manual from the initial audit and from the interactive site specific assessment files, wherein the site-specific interactive manual includes instructions for reducing risks identified during the initial audit, and wherein the site-specific interactive manual includes instructions to periodically perform one or more risk management functions (Safetylogic teaches the checklists that are sent to the client must be completed and returned for evaluation using reporting features which allow the client to track efforts being conducted all over the company).

As per **claim 44**, Safetylogic teaches performing follow up risk assessment of one or more clients (Safetylogic teaches providing quarterly reports to show managers how the company is progressing), but does not explicitly teach training the one or more clients on use and revision of the one or more site-specific assessment files. It would have been obvious to one of ordinary skill in the art at the time of the invention to include training for the clients to ensure the clients know how to operate the system and understand how the process works. This would ensure more accurate results from the risk assessment.

As per **claim 45**, teaches one or more areas of risk management include health and safety, food safety, water safety, asbestos safety, fire safety, occupational health, resource conservation, and occupational hygiene (Safetylogic uses a custom-tailored checklist template populated with

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discipline-specific assessment data, i.e., for clients in the construction, manufacturing, health care, hospitality and retail industries, etc.).

As per **claim 46**, Safetylogic teaches one or more blank master assessment templates are generated by information technology (IT) professionals (inherently the assessment checklists, prior to being completed are created by a professional associated with Safetylogic that has the knowledge to create the checklist and display them on the Internet site).

As per **claim 47**, Safetylogic teaches the master interactive assessment manual is populated with risk management questions, procedures, links, comments and other information useful for risk assessment and management (as one example checklists are created for safety inspections, inherently these checklists would comprise specific questions pertaining to procedures used by the client in their industry, also, the "Internet Index", page 2 of Gjertsen, includes links to information sources that Aon develops with a service provider, for example, an airline's Aonline Internet Index might include links to the Federal Aviation Administration and the National Weather Service).

As per **claim 48**, Safetylogic teaches the master interactive assessment manual is populated with discipline-specific risk management questions, wherein the disciplines for the discipline specific risk management questions include questions from one or more of health and safety discipline, food safety discipline, occupational health discipline, occupational hygiene discipline, water safety discipline, asbestos safety discipline, resources conservation discipline, food preparation discipline, and fire safety discipline (Safetylogic uses a custom-tailored checklist template populated with discipline-specific assessment data, i.e., in the construction, manufacturing, health care, hospitality and retail industries).

As per **claim 49**, Safetylogic does not explicitly teach the population of one or more discipline-specific master assessment manuals are performed by one or more chief consultants having expertise in a specific discipline, wherein in the one or more chief consultants populate the one or more discipline-specific master assessment manuals with questions that are structured to identify issues and assess compliance with statutes, rules regulations, best practices and other duties of care relevant to the specific discipline. However, it would have been obvious at the time of the invention to consult with specialists in each industry to populate the assessment manuals with discipline specific questions to identify issues and assess compliance. Including specialists in the population of assessment questions would ensure accurate risk assessments take place considering important aspects of the discipline at hand.

As per **claim 50**, Safetylogic working with several industry areas including construction, manufacturing, health care, etc., to perform risk assessments using custom-tailored programs. Safetylogic does not expressly teach the specific industry specialists recited in claim 50. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

Further, since Safetylogic includes working with several industry areas including construction, manufacturing, health care, etc., to perform risk assessments using custom-tailored

programs it would have been obvious to one of ordinary skill in the art to include industry specialists with expertise in a specific discipline to ensure accurate risk assessments take place considering important aspects of the discipline at hand.

As per **claim 51**, Safetylogic teaches a site-specific assessment file for a single discipline is generated from the master interactive assessment file (Safetylogic inherently creates a file for the site-specific assessment since that assessment is then transmitted over the Internet).

As per **claim 52**, Safetylogic teaches a site-specific assessment file for multiple disciplines is generated from the master interactive assessment manual (Safetylogic inherently creates a file for the site-specific assessment since that assessment is then transmitted over the Internet; Safetylogic uses a custom-tailored checklist template populated with discipline-specific assessment data, i.e., in the construction, manufacturing, health care, hospitality and retail industries).

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37



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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Loftis whose telephone number is 571-272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JL  
7/17/07



Dominic Jantzi  
Primary Examiner  
Art Unit 3623